IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

IN RE: Quintus Corporation, et al.	
Avaya, Inc.)
Appellant,) C.A. No. 06-769 (SLR)
v.	
KURT F. GWYNNE, Chapter 11 Trustee,) Bankruptcy Case No. 01-00501 through) 01-00503 (MFW)
Appellee.) Adv. 04-53074) AP 06-06-73

APPENDIX TO REPLY BRIEF OF DEFENDANT AVAYA IN SUPPORT OF ITS APPEAL FROM AN ORDER OF THE BANKRUPTCY COURT

ROSENTHAL, MONHAIT & GODDESS, P.A. Jeffrey S. Goddess (Del. Bar. No. 630) 919 N. Market Street, Suite 1401 Wilmington, DE 19801 jgoddess@rmgglaw.com (302) 656-4433

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- and -

SIDLEY AUSTIN LLP James D. Arden 787 Seventh Avenue New York, NY 10019 (212) 839-5300

May 23, 2007

Attorneys for Appellant

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(Appendix to Motion for Leave (Amended) to File Sur-Reply in	
Response to Certain New Matters First Appearing in the Reply Brief	
of the Chapter 11 Trustee on his Motion for Sanctions for Spoliation,	
D.I. 114)	
Deposition Transcript of Eric M. Sherbet, dated November 22, 2005	
(selected pages) (Appendix to Opening Brief of Defendant Avaya, Inc.	
in Support of its Motion for Partial Summary Judgment, D.I. 90)	



Quintus Corporation Account Reconciliation

	Fiscal Period:
Subsidiary:	May-01
Quintus	

Account Number & Name:

Number: 3213-3260

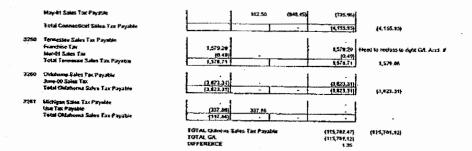
Name: Sales Tax Payable

Prepared By: Lisa Facka Date: July 2, 2001

Approved By:

Recon Cover Sheets

		Balance 6	May-01 /	Activity	Batanca @	1
Acct.	Decipion Cafibria Sales Fax Payable	4/34/40%	Payments	Епреляев	5/31/01	j .
3213		1	1			1
	Apr-91 Sales Tax Payable	(2,141,26)	2,(41.74		-	1
	May-01 Sales Tax Payable	1	1	(9,970,71)		
	Mustang Sales Payment	1	27,728		857.72	1
	Total California Sales (an Payable	} (2,141.2m)	2,999,00	(9.870.Tt)	(9,117,99)	49,412.99)
		Į.				1
32 16	New Jersey Sales Tax Payable	}	1		1	l
	Marting Sales Tax Payment	212,75	1		212.75	l
	April -25-01 Silvos Tax Payabic	(196.50	.4			i
		(196,50			(796.50)	
	May-01 Sales Tax Payable		291,60	[10,600.00]	(30,306.40)	d .
	Total New Jersey Sales Yas Payable	(\$12,75)		(10,400.00)	(10,996.40) (11,091.15)	£11.091.15]
			1			1
3217	Trocas Sales Tax Payable	1	1		1	1
	Oct-05 Use Tax Parane	(1,412.75)	8,112,75		-	t
	Mac-DI Sales Tax Physise	(7.94)	F:94		-	l
	Aculty Sales Tax Payment	1	1,111.99		(,111,98	
	Tetal Texas Sales Tax Payable	299.51	1,113.75		(,111.00	1,111,00
			1		2	1
3219	Indiana Sales Tax Payable		1		•	l
	Dec-87 Involce	900.00	1		880.00	1
	Mar-01 Sales Tax Payante	(2.527.00)	J	2,527.94		
	Total Inclines Sales Tax Payable	(7,527,00		*,000.00	305.04	940,00
			· · · · · · · · · · · · · · · · · · ·			1
3220	Georgia Sales Tax Payable	4	ì		l .	1
	July 00 Sales Tax Payable	(1.184.96)	1,184,94		1	1
		1	1,100.24		l	1
	Total Georgia Sales Tax Payable	(1,164,94)	1,114,04	3,000,00	1,000,00	1
	A STORY STATE OF THE STATE OF T	(1,104,04	1,144,94		7,006.00	3,000.06
3221	Massautunetts Sales Tax Payable	1	i		ļ	1
	Jen-00 Use Tax Payable	4000 000	i	***		ł
	Jul-00 Seles	(309.87)	1	300,07		I
	Aug Use Tys	(367,52	ł .	387.52		
	Martine Cales Les Description	(265.33)	f .	285.33		l
	Mostang Sales Tax Payment Yelial Massachueles Sales Tax Payable	297.00			297.00	1
	s dem nen kinschriden 2 mez 1 ft. b.zk?-pie	4685.72		\$6Z.TZ	297,00	297.00
						1
4222	Flation Sales For Payante Mestary Sales Tax Payane		Į			l
	mentany Sales Tax Paymont	2,125,96	<u> </u>		2,125.96	i
	Total Florida Sales Tax Payable		- 1	•	I,125.95	2,125.95
						1 7
3523	Dec-98 Sales You Payable in Jan-00	(250.44)	ł		(250.+6)	ļ
		(685,26)	à.		(685.26)	ł
	Aug Use Tax	1428.86	ı		(425.86)	1
	Mov-00 Sales Tax Payable	(3,436.60)	1		(3,436.80)	ł.
	Jerr-#1 Safes, Fari Pavable	(2,783.50)		-	[2,783,50]	1
	Anti-25-61 Sales Tax Painter	(1,737.46)			(4.797.69)	i '
	Total Missouri Sales Tax Payable	(7,584,88			(1,737,48)	
		1.7		·	[9,347,36]	(0,322.54)
32725	Pipul York Spies Tax Payable Huy-61 Sales Tax Payable Total New York Solos Tux Payable	Į.	i			i
	May-51 Sales Tax Payable		1	~ ~ ~ ~ ~		ł
	Total New York Solos Tux Payable			(3,264,66)	[X, 264, 66]	
				13,200,004	(1,268.68)	(3,768.04)
3226	Horte Carolina Sales Tax Payable	ì	1			Į.
	Dec-98 hevolog	(7,760.00)	1			ţ
	Dec 99 Sales Tar Payable in Jan 00	(16,087,90)	1		(2,760.00)	}
	feshnasses	4,022.90	l .		(16,647.90)	í
	Arm Safest Tax.	(25,500.00)	1		4,622.00	l
	Sect Sales You	(6,810.00)			(25,500,00)	•
	Nov-00 Sales Tex Payable	(0,000.00)	,		(4.810.90)	i .
	Nov-00 Sales Tex Payable Yotal Nosili Carelina Sales Tex Payable	Sef ,645, 364			(54,641.30)	1
		100,000			(54,641.30)	(54,645.30)
3227	Colorado Sales Yan Payabig		1			٠,
	Sep-97 kwoices	(1,740.64)				
	Nov-97 Invoice	(4,140.64)	I		(3,769.84)	
	Nov-95 Credit Mana	(5,217,00)	ł		\$217,000	
	Dec-98 Involce	608.00	1		606,00	ŀ
	Line Tax	(1,045.24)	i .		(5.945.20)	í
	the Tax	100.00			166,68	
	Use Tax	(264.60)	ł		[284,80)	}
	Total Colorade Sales Tax Payable	(319.34)			(339.36)	!
	The second series take ayang	44,448,52			[3,666,57]	(7,047.52)
3226	Olio Sales Tax Payable	1				4,
-620	Constitution of the colors				_ 1	
	Sep-96 havolice Occ-36 lavoice	(640.45)			(483.45)	
	Max-op Safes Tax	(7,007,00)			(7.007.00)	
	Joi-00 Sales Tax	(\$9,900,07)			(19,900.07)	
	Jet-00 Sales Tax	(3,298.50)		1	(7,204.50)	
	Aug Use Tax	(6,506,60)		ĺ	(1,595,96)	
	Sept Sales Tax.	2,504,70	}	1	2,504,70	
	Feb-01 Sales Tax Payana	T.110.00	1	1	7 140 00	
	Total Ohio Sales the Payable	T_110.00 (22.761.30)	. 1		7,110.00	(22,791,30)
					42,201,307	(22,191,30)
3222	Poresylvania Sales Tax Payable	1		1		
	Mustaria Playment	£360.000		- 1		
	Mestary Sales Tax Payment			- 1	(300,00)	
	Mentary Sales Tax Payment Total Pennsylvania Sales Tox Payatin	7,012.17 1 1,712.17	· · · · · ·		2,012.17	
		1,112,14	L		£762.17	1,712.17
3233	Wictordo Sales Yax Payable			1		
	Mar-01 Sales Yax Payment	,		- 1		
	Mar-O1 Sales Tax Payment Total Wicconsin Sales Tax Payable	1,571.25		<u>-</u>	2,571.25	
				†	9,\$7 C.25	1,571.25
3536	(Ash Sales Tax Payacie					.,
	Soles Tax Payable			a a	. 1	
	Total Usin Sales Tax Payable	(1,666.78)	1,668.74	t		
		(1,464.7B)				
32.62	Consequient Sales Tax Payane					•
	April-25-01 Sales Yax Payable			3	. 1	
		(1,420,00)		- 1	(3,420.00)	



ChiSales Tacificcum Scalors Sales Tax Recognitionan Front Scholos Front adopting on 1213-1262 Rec Avaya

07/02/2001 General Ledger Report By: Account Code / Apply Date Page 1 veneral begger Report by: Account code / Apply Date Quintus 05/01/2001 Ihra 05/31/2001, Detail, Non-Zeco Accounts, Posted Transactions 04:20:55 Deginning Account Code: 3212-000000 Ending Account Code: 3262-000000 ACCOUNT CODE ACCOUNT DESCRIPTION BALANCE 200000 Hassachusetts Use Tax 0.00 Transaction Totals: Final Balance: 0.00 3213-000000 California Sales Tax General Natural Currency Home / Operational Currency

Code Dobit Credit Dobit Credi Apply Date Jrnl Control Humber Description Code Originating Comp (if any) Code Credit 0.00 1,035.60 0_66 4.035.60 Quintus 05/17/2001 AP JRHL00014325 State Board1/VCH US Quintus 2.999.00 0.00 2.999.00 0.00 JRNL00014377 05/24/2001 AR 6.90 5,935.11 5,935.11 0.00 Quintus Period: << Period 2 >> 2,999.00 9,970.71 Transaction Totals: 2.999.00 9,970.71 (9,117.99) 3214-000000 California Use Tax General 0.00 Transaction Totals: Final Balance: 3216-000000 New Jersey Sales Tax General Apply Date | Jrnl | Control Number | Description | Code | Debt | Credit | Debit | Credit |
01. 1/2001 | AP | JRAL00014325 | Sales & Use/VCHO US | 291.60 | 0.00 | 291.60 | 0.00 Code
... JRNL00014325 Sales & Use/VCH0 US
OU.intus
05/18/2001 AR JRNL00014340 10,800.00 291.68 10,800.00 Period: << Period 7 >> 10,800.00 Transaction Totals: 291.60 10,800.00 Final Balance: (11,091.15), 3217-000000 Texas Sales Tax General (1.121.69) Apply Date Jrnl Control Number Description Code Originating Comp (if any) Code Debit Credit Debit Cr 05/16/2001 AP JRNL00014300 Comptroller/VCNO US 2,233.68 4.00 2.233.68 0.00 Period: << Period 2 >> 2,233.68 Transaction Totals: 2.213.68 6.00 Final Balance: 1,111.99

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(0.00)

(1,547,90)

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Apply Date | Jrnl Control Number | Description | Code | Originating Comp (if any) | Code | Debt. | Credit | Debt. | Credit |

05/18/2001 | AE | JRNL00014338 | US | 2,522.90 | 0.00 | 7,527.90 | 0.00

Natural Currency

Washington Sales Tax General

Indiana Sales Tax General

Transaction Totals:

Pinal Balance:

321 a-000000

	07/02/2001 04:20:55			General Led		y: Account Code / App wintes	ity nate		Page 2
			05/91/	2001 Thru 05/31/2		Non-Zero Accounts,	Posted Transa	ections	
	Beginning Ad	count	Code:3212-000000					Ending Account C	
	ACCOUNT CODE	t		ACCOUNT DESCRIP	TIÓN	· · · · · · · · · · · · · · · · · · ·			
				riod 2 >>				2,527,90	0.00
				action Totals:			•	2,527.90	a.00
			Final	Balance:					980.00
	1220-000000			Georgia Sales T					{1,18∢.96}
	Apply Date	Tenl	l Control Number	Page 1-21-		Natural Currency		Home / Operations	l Currency
	ibbry nace	Code	t Control Mumber	(if any)	Code	hebit	Credit	Debit	
	05/17/2001	AP	JRML00014325 Ouintus	Georgia Depc/VCH	บร	1,184.96	0.00	1,184.96	0.00
	05/23/2001	AR			บร	3,000,00	0.00	3,000.00	0.90
		Pe:	riod: << Pe	riod 2 >>				4,184.96	0.00
			Trans	action Totals:				4,184.96	4.00
			final	Balance:					3,000.00
	3221-000000			Massachusetts S	ales Tax Gen	eral	***********		(685.72)
	Annly Date	.Tem	1 Control Number	Denominai		Natural Currency		Home / Operationa	1 Currency
		Code	originating Comp	(if any)	Code	Debit	Credit	Debit	Credit
	05/15/2001 05/17/2002	JZ AP	JRNL00014285 JRNL08014325 Quintus	To Correct JV#10 Massachuse/VCH04	us us	387.52 . 595.20	0.00	387.52 595-20	0.00 0.00
		Per	riod: «« Pe	riod 2 >>				982.72	0.00
			Trans	action Totals:			-	885 70	
				Balance:				982.72	6.05 297.98
	1222-000000			Plorida Sales T	ar General				<i>V</i>
			Tians	action Totals:					2,125.15
			Final	Balance:				0.00	0.00 2,125.95
	3359-000000			Missouri Sales			*********		**
			Trans	action Totals:				0.00	{9,322.36}
			Fina1	Salauce:				0.00	(2,322.36)
	3224-098000			Virginia Sales	· · · · · · · · · · · · · · · · · · ·				
				•	rar Cemerar	Hattaral Covers			0.00
	Apply Date	Code	Control Number Originating Comp	(if any)	Code		Credit	Home / Operationa	
	05/17/2001	****	JRNL00014325	Virginia bep/VCH		~~~~			Credia
	05/24/2001	A.SI	Quintus JRNLBQ614377		บร	0.00	225.00	0.00	9.00
٠.	05/24/2001	ÄR	Quintus JRNL00014377 Quintus		us	0_00	20.25	0.00	275,00
			Juincus						e v . 25

134-92

245.25 -----245.25

Period:

< Period 2 >>

Transaction Totals:

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General Ledger Report By: Account Code / Apply Date
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Page 3

* • • •	05/01/2001 Th	ru 05/31/2001.	Detail.	Man-Zero Accounts,	Posted Transacti	ons

gioning Acc	COUNC	Code: 1212-00000	医异常多数毒性医胃炎及口医毒体炎 (4.5)		二乙二 医乙丁河 多马克斯 医皮肤 医皮肤 医皮肤皮肤	**********	Ending Account Co	*****
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	****	************	New York Sales	Tay General	***************	4.2202224444	2. 化洗涤剂 医自己自己 医自己 医自己 医二甲基苯甲基	0.60
100000			New Tota Sales	da benerar			Home / Operationa	Currence
nolv Date	Jrni	Control Number	Description		Natural Currency			
	Cade	Oxiginating Comp	(if any)	Code	Debit	Credit	Debit	Credi
5/07/2001		JRNL00014245		บร		1,634.33	9.00	1.634.33
5/07/2001	AR	Odintus JRKL00014245		บร	6.00	1,634.33	0.00	1,634.33
5/15/2001	JZ	Quistus JANLSGQ14285	To Correct JV#10	us	0.00	367.52	0.00	387.52
5/16/2001		JRNL00014299 JRNL00014301	Transfer TH from Reinstatement: TK	us Us	41,250.00 0.00	0.00 41,250.00	41,250.00	0.00 41,250.00
5/16/2001 5/17/7001		Quintus JRNL00014309 JRNL00014325	Transfer TH from NYS Sale/NY/VCHO	us us	0.80 387.52	41,250.00	0.00 387.52	41,250.0
5/18/2001		Quintus	AR Clean Up	บร	41,250.00	0.00	41,250.00	0,0
5/18/2001			eriod 2 >>	00	11,1244	,	82,887.52	86,156,1
					•			
		Tran	saction Totals:				82,887.52	\$6,156.1
		Fina	1 Balance:					(3,258.56
26-000000			North Carolina		General		*************	(54,645.30
		Tran	saction Totals:				0.00	ψ. 6
		rina	L Balance:					(54,645.30
					·		··	
27-000000			Colorado Sales	Tax Genera	l			{9,867.52
			saction Totals:				G.00	0.0 (9.867.53
		FIDA	l Balance:					(3,001.32
			Ohio Sales Tax				,	(22,791.30
		Tran	saction Totals:				0.00	0.0
		Pina	l Balance:					(22,791.30
229-090000		· · · · · · · · · · · · · · · · · · ·	Pennsylvania Sa		peral			1,712.1
		Tran	saction Totals:				0.00	a. ₁
		Fina	l Balance;					1,712.
133-00 0 000		·***	Wisconsin Sales	s Tax Gener	31		- 4-	1.571.
			saction Totals:				0 , 09	Q.
							·	1.571.
238-900800			Utah Sales Tax	General				(1,668.7
Spolv Date	Jrn?	Control Number	Description		Matural Currency		. Mome / Operation	
	Code	Originating Coo	p (if any)	Code	Debit	Credit	Debit	Cre
5/17/2001	λP	Jankoog14325 Quintus	Utah State/VCHO	e us	1,661_78	0.00		0.1
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		Tran	gaction Totals:				1,668.78	· · · · · · · · · · · · · · · · · · ·
			al Balance:				2,000.70	g.
			Commediat Sa	ies Tax				(3,420.0
100000					Natural Currency		Nome / Operation	_
apply Date	Jrn.	Control Number	Description					
Apply Date	Jrn. Code	Control Number Originating Con	Description op (if any)	Code	Pebit	Credit	Debiz	Cre
apply Date	Code	Originating Con	sp (if any) State of Com/VC	Code	Depit.	Credit 0_00	Debit	Cre

07/02/2001 04:20:55

General Ledger Report By: Account Code / Apply Date
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05/01/2001 Thru 05/31/2001, Detail, Non-Zero Accounts. Posted Transactions

Page 4

	Ending Account Co						
BALANCE				LPT ION	ACCOUNT DESCRIPT	**********	ACCOUNT CODE
848.45	112.50				ied 2 >>	Period: << Per	
848.45	112.50				ction Totals:	Transa	
(4.155.951					Balance:	. Final	
1,579.06					Teanessee Sales		1250-000000
0.00	0 0 0				ction Totals:	Transa	
1,579.06		•			Balance:	Pinal	
(0.00)					Vermont Sales T		3259-000000
0.00	. q.4a				ction Totals:	Transs	
(00.00)					Balance:	Final	
(3,623.31)			**************	≤ Ta×	Oklahoma Sales		3260-000000
0.00	å_0¢				etion Totals:	Transa	
(3, 823 -38)					Balance:		
(337.46)					Michigan Sales		3261-000000
al Currency	Rose / Operational		Natural Currency		Description	Jrol Control Number	Annily Date:
Credi	tebit	Credit	Debit	Code		Code Originating Comp	Appro Date
0.00	337.46	0.10	337.86	CH US	Nichigam Dep/VCH	AP JRML#0014284 Quincus	05/15/2001
0.00	337.96				riod 2 >>	Period: << Per	· ;
0.00	337.86	- -			ection Totals:	Trans	
[0.00]					Balance:	Final	

Total Number Of Accounts Listed: 24

Report Totals:

108,020,59

98,360.54



Quintus Corporation Account Reconciliation

	Fiscal Period:		
Subsidiary:	May-01		
Mustang			

Account Number & Name:

Number: 3213-3260

Name: Sales Tax Payable

Prepared By: Lisa Facka

Date: July 2, 2001

Approved By:

Date:

Recon Cover Sheets

(1,762.31)

(2,155.85)

(15,072.05) (15,072.05)

Accts	Decription	Walance (§	Moslang Activity Payments Expe
3213	California Sales Tax Payable		
	Mori-81 Sales Tax Payable	(1,904,50)	
	Mor-91 CM #88,09,91	1.561,96	
	Apr-01 Sales Tax Payable	(854,26)	
	May-08 Sales Tax Payable Credit Mono#98	. 1 1	¢
	Total California Sales Tax Payable	(1,192,77)	
	torn Carristian Smet 15x Lalidia.	11,142.72)	
J216	New Jersey Sales Tax Payable	1 . 1	
	Mac-Q1 Sales Tax Payable	(123.75)	
	Apr-81 Sales Yax Payable	(291.63)	
	Total New Jersey Sales Tax Payable		
3219	Indiana Spics Tax Payable	1 1	-
	Jon 01 Sales Tax Payable	(1,567,25)	
	April 6 Sales Tax Payable	(100,00)	
	Total Indiana Sales Tax Payable	(1,664.60)	
3720	Georgia Sales Tax Payable		
	Total Georgia Sales Tax Payable	264.48	- 1
3221	After and the Colon Ton Bounds	1 1	
3621	Missachuneks Spies Fax Payatie Mar-01 Spies Fax Payable		
	May-01 Safes Fax Payable	(297.00)	
	Total Massachuttes Sales Tex Payable	(297,00)	
		(-27,007)	<u> </u>
3222	Finitz Sales Tax Payable	1 . 1	
	Mist-01 Safes Tax Payable	(2,155.86)	
	Total Pleride Sales Tax Payable	(2,155,05)	
3223	Missout Sales Tax Payable	1 1	
	Jul-00 Sales Tax Payable	(32.25)	
	Aug-00 Sales Tax Payable	(431.55)	
	Sept-00 Sales Tax Payable	(511.81)	
	Oct-00 Sales Tax Payable	(1,089,38)	
	Jan-01 Sales Tax Payable		
	Total Missouri Sales Tax Payable	(2,046.92)	· ·
3224	Virginia Sales Fax Payable	1 1	
•	Mar-M Sules Tax Payable	88.03	
	Act #1 Sales Tay Payable	1 (537.76)	•
	Total Virginia Sales Tax Payable	(49.61)	
3224	Acceptance of the second		
32.74	Offic Sales Tax Payable Jul-09 Sales Tax Poyable		
	Nov-00 Sales Tax Payable	(1,123,07)	
	Dec-00 Sales Yax Payable	(700.00) (224.41)	
	Jen 01 Sales Tax Payable	(230,63)	,
	Mar-Ot Safet Tax Psyable	(918,56)	
	Total Ohio Sales Tax Payable	(3,364,67)	
3229			
3229	Pennsylvania Sales Tax Payable May-00 Invoice	1	
	Oct-00 Sales Tax Payable	(1,237.56)	
	Nov-00 Safes Tax Pavartie	1 . 1	•
	Dag-00 Sales Tay Payable	(60,50)	-
	Jac-O1 Sales Tax Payable	(795,00)	•
	Total Pennsylvania Sales Tax Payable	(2,051.00)	
3237	Minimum Culous Van Circulate		
	Alabima Saley Tax Payable Oct-00 Sales Tax Payable		
	Total Alabama Sales Tax Payable	(259.64)	
		[277.60]	
3242	Connecticul Sales Tax Payable		
	Jan-01 Sales Tax Payable	[192,50)	
	Yetas Commedicut Sales Tax Payoble	(112,50)	
3252	losa Sales Tax Payable		
	Oct-ON Sales Yaz Payable	(100.00)	
	Total terra Sales Yaz Payable	(100.00)	
1255			
1532	Hebrasica Soles Tax Payable		
	Fati-01 Soles Tax Payable Yotal Nebraska Sales Tax Payable	634.73)	
	THE PARTY OF THE P	(1,657.23)	
		TOTAL MARKET	Cates Town Barrel
		LAUVE BUTERING	Safes Tax Payable

General Ledger Report By: Account Code / Apply Date 07/02/2001 Page 1 Mustang
05/01/2001 Thru 05/31/2001, Detail. Non-Zero Accounts. Fosted Transactions 04:22:00 Beginning Account Code: 3212-400000 Ending Account Code: 3262-400000 ACCOUNT CODE ACCOUNT DESCRIPTION BALANCE California Sales Tax General Hatural Currency Home / Operational Currency Apply Date | Jrnl Control Number | Description | Code Originating Comp (if any) Code Debit Credit 05/16/2001 AR JRNL00001214 334.80 US 0.00 0.00 334.80 05/17/2001 AR JENL00001217 345.26 us 0.00 345.26 0.40 Period: << Period 2 >> Transaction Totals: 345.26 334.80 Final Balance: (1.182.31) 3214-400000 California Use Tax General Transaction Totals: D. 00 0.00 Final Balance: 0.96 Illinois Sales Tax General Transaction Totals: 0.00 0.00 Final Balance: 0.00 New Jersey Sales Tax General (415.35)Transaction Totals: 0.00 (415.35) Texas Sales Tax General Transaction Totals: 0.00 0.00 Final Balance: 3218-400800 Washington Sales Tax General Transaction Totals: 0.00 Final Balance: 0.00 3219-400000 Indiana Sales Tax General (1,667,25) Transaction Totals: 0.00 0.00 Final Balance: (1,667.25) 3221-400000 Massachusette Sales Tax General 1297.061 Natural Currency Home / Apply Date Jrni Control Number Description Code Originating Comp (if any) Home / Operational Currency Code Debit Credit Debit Credit 05/18/2001 AR JRNL00001223 US 0.00 525.00 0.00 Mustang 05/24/2001 AR JRNL00001237 US 0.00 0.00 Mustang Perlod: << Period 2 >> 0.00 997.50

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(1,204.50)

0.00

Transaction Totals:

Plorida Sales Tax General

Final Balance:

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Page 2		y Date		dger Report By: A Musia	General Le			7/02/2001 4:22:00
	actions	Posted Transact:	žero Accounts,	2001. Detail. No	2001 Thru 05/31/	05/01/		
ode:3262-400000	Ending Account (Code:3212-400000		
BALANCE		*********	******		ACCOUNT DESCRI	************		CCOUNT CODE
7 7 7 7 7 4 4 5 5 5 5 6 7 6 7 6 7 6 7 6 7 6 7 6 7 6 7	************					**********		
. 0.00	0.00				action Totals:	Trans		
(2,155.95)					Balance:	Final		
(2,046.99)				Tax General	Hissouri Sales			223-400000
a.00	0.00				action Totals:	Trans		
(2,016.99)					Balance:	Pinal		
(49.61)				Tax General	Virginia Sales			Z24-400000
0.00	0.00				action Totals:	Trans		
					Balance:	Final		
(49.61)								
{3.368.67)					Ohio Sales Tax	•••••••••••••		228-400000
			ural Currency					
*******	Home / Operations				Description	Control Number Originating Comp	Jrel	Apply Dace
Credit	Debit	Credit	Debit		(ir any)			
0.00	226.41	0.60	226.41	US		JRNL00001230 Mustang	AR	05/23/2001
					riod 2 >>	iod: «« Pe	Peri	
0.00	226.41				1100 2 33			
0.00	226.41				ction Totals:	Transa		
	220.4				Balance:	Final		
(3,142.26)								
{2,093.00}				ales Tax General				229-400000
	0.00			•	ction Totals:	Transa		
0,00	4.00				Balance:	Finál		- 1
(2.093.00)					22204061			
				Tax General Gener	Alabama Sales			237-400000
(259.60)					ction Totals:			
0 - 00	0.00	•	•					
(259.60)					Balance:	Final		
				3 May (2)	Connecticut Sal	•		242-100000
(112.50)				les tax General				
0.00	0.00				ction Totals:			
(112.50)					Balance:	Final		
· · · · · · · · · · · · · · · · · · ·						******		252-400000
(108.00)				General General	lowa Sales Tax			
0.00	D.00				ction Totals:	Transa		
(108.00)					Balance:	Final		
(200.00)								55-400000
(634.73)				Tax General Gene	Mebraska Sales			35-400000
0.00	0.00				ction Totals:	Transa		
					Balance:	Final		
(634.73)						• • • • • • • • • • • • • • • • • • • •		
	Debit	Debi						
Credit					Totals:			

02483

Number Of Accounts Listed: 17

Page 1 1 IN THE UNITED STATES BANKRUPTCY COURT ,2 FOR THE DISTRICT OF DELAWARE 3 CHAPTER 11 4 IN RE: 5 Bankr. No. 01-00501 (MFW) through No. 01-00503 (MFW) QUINTUS CORPORATION, et al, : 6 Debtors Jointly Administered 7 ั้ QUINTUS CORPORATION, MUSTANG.COM, INC., and Adversary No. 04-53074 (MFW) 9 ACUITY CORPORATION, 10 Plaintiffs, DEPOSITION OF: 11 ERIC M. SHERBET vs. 1.2 AVAYA, INC., 13 Defendant. 14 15 TRANSCRIPT of the stenographic notes of the proceedings in the above-entitled matter, as taken by and 16 17 before JANICE D. BURNESS, a Certified Shorthand Reporter, 18 Registered Professional Reporter and Notary Public of the 19 -State of New Jersey, held at the office of REED SMITH, LLP, 20 Princeton Forrestal Village, 136 Main Street, Suite 250, Princeton, New Jersey, on Tuesday, November 22, 2005, 21 commencing at 10:05 in the forenoon. 22 23 24 25

DOERNER & GOLDBERG, INC 5 Becker Farm Road * Roseland, NJ 07068

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973-740-1100

2 Industrial Way West * Eatontown, NJ 07724

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		Page 2
1	APPEARANCES:	
2		
. 3	REED SMITH, LLP	
4	BY: JOHN G. HARRIS, ESQ. 1201 Market Street	
5	Suite 1500 Wilmington, Delaware 19801 Attorneys for Chapter 11 Trustee	
6	SIDLEY, AUSTIN, BROWN & WOOD, LLP	
7_	BY: JAMES D. ARDEN, ESQ. 787 Seventh Avenue	
8	New York, New York 10019 Attorneys for Avaya, Inc.	
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5 Becker Farm Road * Roseland, NJ 07068
A - 264

2 Industrial Way West * Eatontown, NJ 07724

		Page 8
1	Q -	And you're presently employed by Avaya?
2	Α.	Yes.
3	Q.	And how long have you been employed by Avaya?
4	A.	Since July 2000.
5	Q.	What are your current responsibilities?
6	Α.	I'm the vice president and general auditor of
7	1.	means that I am the head of the internal audit
8	group at Avaya.	
9	Q.	Did you hold that same position in the year
10		Quintus Avaya transaction closed?
11	Α.	No, I did not.
12	Q.	What was your position then?
.13	A	Corporate counsel, Avaya's law department.
14	Q.	And I know that you were an associate at the
15		ul Hastings prior to joining Avaya. Is that
16	correct?	at habelings prior to joining avaya. Is that
17	Α.	That's correct.
18	Q.	What was your main practice there while you
19	were in private	
20	A.	
21	security law.	Just corporate law, mergers and acquisitions,
22	Q.	Grhilo at Brown have
23	sale acquisitio	While at Avaya, have you ever handled any other
24	,	
	Α.	Yes.
25	Q.	And what were those acquisitions?
1		

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 $\frac{973-740-1100}{\text{2 Industrial Way West * Eatontown, NJ 07724}}$

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CERTIFICATE

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I, JANICE D. BURNESS, a Certified Shorthand
Reporter, Registered Professional Reporter and Notary Public
of the State of New Jersey, do hereby certify that prior to
the commencement of the examination ERIC M. SHERBET was duly
sworn by me to testify the truth, the whole truth and nothing
but the truth.

8 9

10

11

I DO FURTHER CERTIFY that the foregoing is a true and accurate transcript of the testimony as taken stenographically by and before me at the time, place and on the date hereinbefore set forth.

12 · 13

> 14 15

> 16

I BO FURTHER CERTIFY that I am neither a relative nor employee nor attorney nor counsel of any of the parties to this action, and that I am neither a relative nor employee of such attorney or counsel, and that I am not financially interested in the action.

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Certified Shorthand Reporter, License XI00225900 Registered Professional Reporter Notary Public of the State of New Jersey I.D. 2015681 Expires 01/29/2008

Orici D. Burress

Dated: December 5, 2005

DOERNER & GOLDBERG, INC 5 Becker Farm Road * Roseland, NJ 07068 973-740-1100

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CERTIFICATE OF SERVICE

I, Jeffrey S. Goddess, hereby certify that on May 23, 2007, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF which will send notification of such filing to all registered participants. I further certify that I caused a copy of the foregoing document to be served upon the following persons in the manner indicated:

First Class Mail

(Official Committee of Unsecured Creditors) Christopher A. Ward, Esquire The Bayard Firm 222 Delaware Avenue, Suite 900 Wilmington, DE 19899-5130

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(Official Committee of Equity Security Holders)
J. Mark Chevallier, Esquire
McGuire, Craddock & Strother, P.C.
Lincoln Plaza, Suite 3550
500 North Akard
Dallas, TX 75201

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First Class Mail

Kimberly E.C. Lawson, Esquire Reed Smith LLP 1201 Market Street #1500 Wilmington, DE 19801-1163

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Richard Schepacarter, Esquire Office of the U.S. Trustee 844 King Street, Room 2311 Wilmington, DE 19801

First Class Mail

Michael S. Etkin, Esquire Ira M. Levee, Esquire Lowenstein Sandler PC 65 Livington Avenue Roseland, NJ 07068

First Class Mail

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Jessica Zeldin (Del. Bar No. 630)

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